

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 3:22cr35
)	
KORTNEY THOMAS KELLEY,)	
Defendant)	

POSITION THAT MR. KELLEY IS COMPETENT TO PROCEED

Undersigned counsel files the following position asserting that Mr. Kelley is competent to proceed to trial in this matter. In support of that position, undersigned counsel states the following:

1. Undersigned counsel has reviewed a copy of the “Court-Ordered Competency Evaluation” that Dr. Evan Nelson completed and dated July 18, 2022¹. In that report, after meeting with Mr. Kelley and reviewing pertinent records, Dr. Nelson found that Mr. Kelley “possessed a rational and adequately factual understanding of a trial and the roles of courtroom personnel and possessed the capacity to assist counsel in preparing a defense.” Thus, Dr. Nelson has opined that Mr. Kelley is competent to proceed to trial.
2. That is also undersigned counsel’s assessment of Mr. Kelley. Mr. Kelley has improved significantly with the help of consistent medical care and appropriate treatment and also stable housing. Undersigned counsel’s position is that Mr. Kelley is able to consult her with a reasonable degree of rational understanding and has a rational as well as factual understanding of the proceedings against him. *See, e.g., Dusky v. United States*, 362 U.S. 402, 402 (1960) (observing that the “test must be whether he has sufficient present ability

¹ The defense does not have a competing competency evaluation to offer to the Court.

